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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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02-67971 (E)

The meeting was called to order at 3.10 p.m.

Agenda item 107: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism and racial discrimination (*continued*) (A/C.3/57/L.32)

Draft resolution A/C.3/57/L.32: International Convention on the Elimination of All Forms of Racial Discrimination

1. **Mr. de Barros** (Acting Secretary of the Committee) said that, in paragraph 4 of the draft resolution, the General Assembly had requested the Secretary-General to ensure adequate financial arrangements and to provide the necessary support, including an adequate level of Secretariat assistance, in order to ensure the functioning of the Committee and to enable it to cope with its increasing amount of work.

2. The Secretariat wished to draw attention to the provision of part B, section VI, of General Assembly resolution 45/248, in which the General Assembly had reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

3. Provision for secretariat assistance had already been made in the programme budget for the biennium 2002-2003, hence adoption of the draft resolution would not entail any additional appropriation.

4. **Ms. Tomič** (Slovenia) announced that Armenia, China, Japan and Malta also wished to co-sponsor the draft resolution. She hoped that it would be adopted by consensus.

5. The Chairman announced that Albania, Ecuador, El Salvador, Liberia and Nicaragua wished to be added to the list of sponsors. He informed the Committee that a recorded vote had been requested on chapter I, paragraph 10, of the draft resolution.

6. **Ms. Tomič** (Slovenia), speaking in explanation of vote before the voting, said that, as the main sponsor of the text, her delegation supported its integrity and regretted that a vote had been requested. The Committee on the Elimination of Racial Discrimination had made a valuable contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and should, therefore, in the discharge of its mandate, give consideration to the contents of the Durban Declaration and Programme of Action. Slovenia would therefore vote to retain paragraph 10.

7. **Mr. Maertens** (Belgium), speaking in explanation of vote before the voting, said that, as one of the main sponsors of the draft resolution, his delegation was very attached to its content in its entirety. The International Convention on the Elimination of All Forms of Racial Discrimination represented the centrepiece of United Nations action in the fight against racism, and the antidiscrimination agenda adopted at the Durban Conference could serve as an important source of inspiration for the work of the Committee on the Elimination of Racial Discrimination. He emphasized that the draft resolution did not call into question the independence of the monitoring mechanisms established by the Convention, but merely attempted to take account of a significant event in the history of the fight against racism. His delegation would therefore vote in favour of retaining the paragraph in question.

8. *A recorded vote was taken on the proposal to retain chapter I, paragraph 10, of draft resolution A/C.3/57/L.32.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco,

Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

Kuwait, Marshall Islands.

9. *The proposal was adopted by 154 votes to 2, with 2 abstentions.*

10. **Mr. Fox** (United States) said that his delegation had requested the recorded vote and voted against the inclusion of paragraph 10 because the consideration of provisions of the Durban Declaration and Programme of Action by the Committee on the Elimination of Racial Discrimination would substantially and inappropriately expand its mandate, particularly in view of the flaws in the Durban process and its outcome documents. Moreover, the draft resolution concerned the implementation of the Convention on the Elimination of All Forms of Racial Discrimination, not the Durban Conference, and therefore paragraph 10 was out of place.

11. The United States strongly condemned racial discrimination and was a party to the Convention. However, given that, in accordance with article 19 of the Vienna Convention on the Law of Treaties, reservations to a treaty were acceptable on condition that they were compatible with the object and purpose of the treaty, he opposed the inclusion in chapter III, paragraphs 3 and 5, of the draft resolution of language which did more than ask sovereign States to consider becoming parties to the Convention. Notwithstanding those objections, however, the United States would join the consensus on the draft resolution.

12. *Draft resolution A/C.3/57/L.32 was adopted*

Agenda item 108: Right of peoples to self-determination (*continued*) (A/C.3/57/L.31, L.33 and L.35)

Draft resolution A/C.3/57/L.31: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

13. **Mr. de Barros** (Acting Secretary of the Committee) said that, in paragraph 14 of the draft resolution, the General Assembly had requested the Secretary-General to provide the Special Rapporteur with all the necessary assistance and support, both professional and financial, for the fulfilment of his mandate, including through the promotion of cooperation between the Special Rapporteur and other components of the United Nations system that dealt with countering mercenary-related activities.

14. The Secretariat wished to draw attention to the provision of part B, section VI, of General Assembly resolution 45/248, in which the General Assembly had reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

15. Provision for the Special Rapporteur had already been made in the programme budget for the biennium 2002-2003, hence adoption of the draft resolution would not entail any additional appropriation.

16. **Mr. Amorós Núñez** (Cuba), speaking on behalf of the sponsors, said that he wished to make a minor revision to the text: in paragraph 5, the word "sign" should be replaced by "accede to".

17. **The Chairman** announced that Namibia wished to join the sponsors.

18. **Mr. Sookocheff** (Canada), speaking on behalf of Canada and New Zealand, said that the activities of mercenaries raised serious questions relating to human rights, State sovereignty, impunity and humanitarian law and, consequently, he was disappointed that the draft resolution focused only on the issue of self-determination. Canada and New Zealand did not believe that concerns regarding actual and potential abuses of other human rights, inter alia the right to life and the right to freedom from torture, should be treated

as having minor importance, and they were therefore unable to support the draft resolution.

19. **The Chairman** announced that a recorded vote had been requested on the draft resolution.

20. *A recorded vote was taken.*

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gambia, Ghana, Grenada, Guatemala, Guyana, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, Georgia, Iceland, Israel, Italy, Japan, Luxembourg, Micronesia, Netherlands, Norway, Poland, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Albania, Andorra, Australia, Austria, Bulgaria, Croatia, Cyprus, France, Germany, Greece, Hungary, Ireland, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Monaco, Nauru, New Zealand, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Slovakia, Slovenia, Spain, Switzerland, Turkey, Ukraine, Yugoslavia.

21. *Draft resolution A/C.3/57/L.31 was adopted by 108 votes to 19, with 32 abstentions.*[*]

22. **Ms. Davtyan** (Armenia) said that the conflicts in the South Caucasus region had provided perhaps the best examples of the use of mercenaries to impede the exercise of the right of peoples to self-determination. She drew attention to the recruitment of mercenaries from Afghanistan, whose involvement in the conflict had been made possible by exploiting the idea of religious solidarity and by portraying the South Caucasus region as a battlefield of religions. Her delegation had therefore voted in favour of the draft resolution.

23. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, and, in addition, Iceland, said that although the European Union was concerned about the dangers of mercenary activities, strongly condemned the involvement of mercenaries in terrorist activities and would continue to participate actively in dialogue on ways of curbing such activities, it had been unable to support the draft resolution.

24. The European Union was not certain that the use of mercenaries should be dealt with as a human rights issue and, consequently, had doubts as to whether the Third Committee was the proper forum in which to consider the question and whether the High Commissioner for Human Rights should be asked to devote priority attention to it. It believed that the consideration of the use of mercenaries and the question of elaborating a legal definition of the term "mercenaries" fell within the competence of the Sixth Committee.

25. **Mr. Fox** (United States of America) said that he had voted against the draft resolution because it constituted an unnecessary and purely political exercise which diverted scarce United Nations resources in the area of human rights away from more worthwhile endeavours. Nevertheless, the United States had

[*] The delegation of Ecuador subsequently informed the Chairman that it had intended to vote in favour of the draft resolution.

cooperated fully with the Special Rapporteur in the fulfilment of his mandate and wished to commend the sponsors of the draft resolution on the formulation of paragraph 5, which merely invited States to "consider" acceding to or ratifying the International Convention rather than presuming to direct them to consider doing so. That approach should be adopted in respect of all resolutions before the Committee which dealt with the question of increasing the number of States parties to international conventions.

Draft resolution A/C.3/57/L.33: Universal realization of the right of peoples to self-determination

26. **The Chairman** said that the draft resolution contained no programme-budget implications.

27. **Mr. Andrabi** (Pakistan), speaking on behalf of the sponsors, announced that Botswana, Liberia, Mauritania, Somalia, Thailand, Zambia and Zimbabwe had joined the list of sponsors. He hoped that the draft resolution would be adopted by consensus.

28. **Ms. Elisha** (Benin) said that her delegation had chosen to co-sponsor the draft resolution because it was in line with the interests and aspirations of the Beninese Government and people. Her delegation would refrain, however, from making any interpretation which did not fall within the scope of the draft resolution.

29. **Ms. Tomar** (India) said that the representative of Pakistan, when introducing draft resolution A/C.3/57/L.33, had referred to the people of Jammu and Kashmir without first consulting the other sponsors. Her delegation took the view that that reference was inappropriate.

30. **Mr. Loh** Tuck Keat (Singapore) said that his delegation supported the right of peoples to self-determination. He pointed out that the draft resolution did not pronounce itself on specific situations, which should be carefully assessed on a case-by-case basis.

31. **Ms. Pham Thi Kim Anh** (Viet Nam) said that the Vietnamese people had endured a long struggle to exercise the right to self-determination. It was important to examine individual situations on a case-by-case basis.

32. **Ms. Davtyan** (Armenia) said her delegation had co-sponsored draft resolution A/C.3/57/L.33 on the understanding that it upheld a universally recognized principle of international law. She believed that references to particular cases during the introduction of the draft resolution did not serve its purpose.

33. *Draft resolution A/C.3/57/L.33 was adopted.*

34. **Ms. Ayuso** (Argentina) said that, in accordance with the relevant General Assembly resolutions, she wished to reiterate her delegation's full support for the right to self-determination of peoples still subject to colonial domination or foreign occupation. Nevertheless, the exercise of that right must not undermine the national unity and territorial integrity of sovereign States.

35. **Mr. Akram** (Pakistan) said that he was deeply dismayed at the attempt of the representative of India to offer an interpretation of the sponsors' position on a statement made by his delegation. That practice was completely unethical and the Committee should reject it as a display of hegemony and misrepresentation.

36. He referred the representative of India to the various Security Council resolutions which declared that the people of Jammu and Kashmir must be given the right to determine their own future in a free and fair plebiscite. United Nations maps all indicated that Jammu and Kashmir was a disputed territory, and it was a travesty to infer that the right to self-determination did not apply to the people of that state. India should refrain from imposing its will on the members of the Committee.

Draft resolution A/C.3/57/L.35: The right of the Palestinian people to self-determination

37. **Mr. Roshdy** (Egypt), speaking on behalf of the sponsors, said that the draft resolution merely stressed the right of the Palestinian people to self-determination and called for the urgent resumption of the peace process. He hoped that it would be adopted by consensus, although he was aware that that was a vain hope.

38. **The Chairman** announced that Albania, Bhutan, Bosnia and Herzegovina, Bulgaria, Guyana, India, Madagascar, Malawi, Mozambique, Swaziland, Switzerland, the Former Yugoslav Republic of Macedonia and Yugoslavia wished to add their names to the list of sponsors.

39. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia

and Turkey, and, in addition, Iceland and Norway, said that the delegations for which she spoke were firmly committed to enabling the Palestinian people to exercise their right to self-determination, and welcomed the international community's objective of creating two sovereign States, Israel and Palestine, living side by side within secure and recognized borders.

40. The European Union was actively involved in the efforts of the new coordinating mechanism, known as the Quartet (A/57/1, para. 15), to seek a comprehensive settlement. In that regard, the establishment and implementation of a "road map" leading to the creation of a Palestinian State in 2005 and the holding of democratic elections were of crucial importance.

41. **Mr. Lancry** (Israel) urged Committee members carefully to consider their vote on the draft resolution, which was a highly political issue under negotiation between Israel and Palestine. Although it contained human rights elements, they were essentially part of a much broader policy to be determined bilaterally between the two parties. Israel supported the principle of self-determination worldwide, including in the Middle East. At Camp David, more than 20 years earlier, Israel had recognized the legitimate rights of the Palestinian people on the condition that it was realized through peace negotiations.

42. Through the Oslo peace process, Israel and the Palestinians had agreed to recognize their mutual legitimate political rights in the framework of peaceful negotiations for a permanent solution to the conflict. More recently, negotiations between the two parties on outstanding issues pertaining to permanent status had come to a standstill with the renewed violence on the part of the Palestinians, following the 2000 Camp David Summit. Once the violence ended, the negotiations would be resumed. Meanwhile, the draft resolution pre-empted them and could only undermine their successful outcome.

43. He urged the Committee not to prejudge the issue, especially in the terms in which the draft resolution was couched. The result of the vote would show whether the practitioners of terrorism would be reprimanded or rewarded, and would determine whether Palestinian terrorists believed that they could persist in their murderous ways with impunity and still command the sympathy of the world. His delegation called for a recorded vote on the draft resolution and urged Committee members to reject it, since support for it would send the wrong signal at the wrong time.

44. *A recorded vote was taken.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against:

Israel, Marshall Islands, United States of America.

Abstaining:

Cameroon, Micronesia (Federated States of), Nicaragua.

45. *Draft resolution A/C.3/57/L.35 was adopted by 156 votes to 3, with 3 abstentions.*

46. **Mr. Laurin** (Canada) said that, while his country fully supported the right of the Palestinian people to self-determination and the creation of a Palestinian State, it believed that Palestinian interests and those of the region would be best served if that right were expressed through the negotiation process. He had voted in favour of the draft resolution because it both endorsed the right of the Palestinians to self-determination and emphasized the importance of the negotiation process in the fulfilment of that right, which Canada had consistently supported, as it did the rights of all States in the region to live in peace within secure, internationally recognized borders. Given the events of the previous two years, he echoed the call contained in the draft resolution for the immediate resumption of negotiations.

47. **Mr. Choi** (Australia) said he had voted in favour of the draft resolution because of its important restatement of Palestine's right to self-determination. Had a separate vote been taken on each paragraph, Australia would have abstained on paragraph 1, not because it lacked sympathy for the Palestinians and their legitimate right to self-determination, but because a just, comprehensive and lasting resolution could come only from the parties themselves, through peaceful negotiations based on Security Council resolutions 242 (1967) and 338 (1973) and the principle of land for peace, and on Security Council resolution 1397 (2002), which referred to two States, Israel and Palestine, living side by side within secure and recognized borders, a balance imperfectly reflected in paragraph 1. In the current situation in the Middle East, an immediate halt to the violence and an early and effective resumption of negotiations were henceforth more important than ever.

48. **Mr. Roshdy** (Egypt) said he had not replied earlier to the statement by the representative of Israel, in the hope that the Committee would do so through its vote. That vote was the Committee's best reply to Israel's accusation that Palestinians were terrorists and the avowal of its commitment to the realization of the right to self-determination in the region. Far from being terrorists, Palestinians were simply fighting for the realization of that right. He wondered how much time and how many draft resolutions were needed before Israel understood that fact. He hoped that 2002 was the last year such a draft resolution would be necessary and that by 2003 Palestine would have achieved self-determination.

Agenda item 109: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/57/L.30 and L.39)

Draft resolution A/C.3/57/L.30: Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the United States amendment thereto in document A/C.3/57/L.39

49. **The Chairman** invited the Committee to take action on draft resolution A/C.3/57/L.30 entitled "Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", and the United States amendment thereto in document A/C.3/57/L.39, and invited the Secretary to read out a statement on the programme-budget implications of the draft resolution.

50. **Mr. de Barros** (Acting Secretary of the Committee) said that it was stated in article 2, paragraph 1, of the draft Optional Protocol annexed to draft resolution A/C.3/57/L.30 that a Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture should be established and carry out the functions laid down in the Protocol. Under article 5, of the draft Optional Protocol, the Subcommittee would consist of 10 members. After the fiftieth ratification of or accession to the Protocol, the number of members would increase to 25, serving in their individual capacity.

51. As stipulated in article 7, paragraphs 1 (b) and (c), of the annex, the initial election of the members of the Subcommittee by the States parties would be held no later than six months after the entry into force of the Protocol. Article 10, paragraphs 2 and 3, of the annex provided that the Subcommittee would establish its procedure and, after its initial meeting, would meet at such times as provided by its rules of procedure.

52. Article 28, paragraph 1, of the annex stated that the Protocol would enter into force on the thirtieth day after the date of deposit with the Secretary-General of the twentieth instrument of ratification or accession. Article 25, paragraph 2, of the annex stated that the Secretary-General would provide the necessary staff and facilities for the effective performance of the Subcommittee's functions under the Protocol. In that context, the Secretary-General did not anticipate that the Protocol would enter into force during the biennium 2002-2003. However, subject to the priority that the Member States gave to the speedy entry into force of the Protocol, its was possible that the Protocol would enter into force in the biennium 2004-2005.

53. Should the Third Committee adopt the draft resolution, the Secretariat did not anticipate any programme budget implications for the biennium 2002-2003. However, in the event that the Protocol entered into force in the biennium 2004-2005, it was estimated that requirements of approximately $2.1 million would arise for the regular budget. The estimate was based on the assumption that the Subcommittee would consist of 10 members and would hold its first organizational meeting in 2004 and two sessions in 2005.

54. Assuming that 20 States were parties in 2004, the Subcommittee might decide to plan visits to four States parties in 2005 to keep the periodicity of visits to each State Party to one visit every five years. It also assumed — on the basis of the experience of the visits carried out by the Committee against Torture to States parties to the Convention — that each visit would last at least two weeks. The minimum secretariat support needed to provide substantive services to the Subcommittee would consist of one P-4 and one General Service staff member in 2004, and one P-4, one P-3 and one General Service staff member in 2005.

55. Further details were contained in the annex to his statement, which had been circulated earlier as an unofficial document.

56. **Mr. Tomoshige** (Japan) said that the budgetary information concerning the draft Optional Protocol, which his delegation had requested, had been received only that morning. It estimated that, if the Optional Protocol entered into force in the biennium 2004-2005, it would entail a regular budget appropriation of approximately $2.1 million in the near future. That information was an important element of the Committee's action on the draft resolution and the United States proposed amendment thereto. In that connection, while thanking the Secretariat for its efforts to produce the statement just read out, his delegation requested that the pertinent information should be made available to all members of the Third Committee as an official document.

57. Four of the core human rights instruments — the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers — contained an article apparently authorizing regular budget funding. Those four instruments had also been accompanied by an official document containing budgetary information at the time of their adoption by the Third Committee. Committee members should have an opportunity not only to study the information provided, but to dispatch it to their capitals for further instructions before any action was taken. He requested that discussion of documents A/C.3/57/L.30 and L.39 should be deferred for at least 24 hours.

58. **The Chairman** pointed out that the Japanese delegation's request for the information had been fulfilled that morning. The suggestion that it should be distributed as an official document had been noted and would be discussed.

59. **Mr. de Alba** (Mexico) said that the unofficial document had rapidly been made available to members at Japan's request. His delegation opposed the proposal to defer action and doubted the need to issue the information as an official document, especially since the financial implications applied to the biennium 2004-2005 and not to 2003. Since Japan's views on the substance of the issue were well known, there was no justification, at that juncture, for a vote on such a well-supported draft resolution. Any adjustments required could be decided through discussion. His own delegation felt strongly about the matter and, barring a specific request from a delegation for a vote, he would request the Chairman to agree to his proposal.

60. **The Chairman** said he had understood the Japanese delegation to be requesting a deferral of the discussion.

61. **Mr. Gaffney** (United States of America) recalled that the General Assembly in resolution 47/111 had reaffirmed the importance of addressing financial implications whenever any further human rights

instruments were elaborated. The report of the working group of the Commission on Human Rights on a draft optional protocol on its first session, in 1992, had stated that delegations had requested the preparation of a detailed financial analysis of the costs associated with the operation of the proposed system of visits for submission to the working group at an early stage of its future deliberations. Yet, the Committee had received a very brief and informal evaluation on the very day it was being asked to take action on the draft Optional Protocol.

62. He thanked the Chairman for his efforts in obtaining that information, but a quick perusal had shown that it raised several issues requiring a much more detailed review before consideration of the two documents before the Committee. There were many unknown quantities, such as whether the start-up cost estimate based on a 10-member Subcommittee would increase by 150 per cent when the number increased to 25. The cost of the corresponding European mechanism was approximately $4 million. Given the short time available for perusal of the statement of financial implications, he supported the Japanese proposal for deferral.

63. **The Chairman** said that, following a request from the floor at a previous meeting, and according to established practice, he had announced that any further discussion would be deferred until the Committee had before it a statement concerning budgetary issues. That statement was now before the Committee.

64. **Mr. Næss** (Norway) said his country strongly supported the draft Optional Protocol and that after 10 years of intensive discussion the time had come for action. It had never been a secret that the Optional Protocol would have budgetary implications. He was amazed that two of the world's richest countries should raise objections on budgetary grounds. He proposed that the Committee should proceed to a vote on the draft resolution without further ado.

65. **The Chairman** said that, since there was no consensus in the Committee, he would put the Japanese motion to a vote.

66. **Mr. de Alba** (Mexico) asked whether the Japanese delegation had actually requested a vote.

67. **Mr. Tomoshige** (Japan) said he wished to point out that, although the information had been received barely two hours previously, the Committee was preparing to decide on an optional protocol authorizing crucial regular budget funding. He had requested a deferral, not of a year but of 24 hours, because that important information should be dispatched to the capitals of all members of the Committee. His delegation had repeatedly but unsuccessfully asked the sponsors to hold informal consultations to discuss the matter further. Given the insufficient time for adequate scrutiny of the data, he reiterated his request for a deferral of action on the draft resolution and the United States amendment.

68. **The Chairman** replied that, although that point was well taken, the Committee was now considering the action to be taken. Since there was no consensus, he would put the request for a deferral to a procedural vote.

69. **Mr. Stagno** (Costa Rica), speaking on a point of order, said it was deplorable that the Committee should submit to one delegation's dilatory tactics on a matter of such importance for the defence of human rights. Japan appeared to be putting money before the general interest, and its proposal was quite unjustified.

70. **The Chairman** invited the Committee to vote on the motion to defer action on draft resolution A/C.3/57/L.30.

71. *A recorded vote was taken.*

In favour:

China, India, Israel, Jamaica, Japan, Kazakhstan, Kuwait, Malaysia, Singapore, United States of America, Uzbekistan, Zimbabwe.

Against:

Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Germany, Greece, Guatemala, Hungary, Iceland, Indonesia, Ireland, Italy, Kenya, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Mexico, Monaco, Mozambique, Namibia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Kitts and Nevis, Samoa, San Marino, Slovakia, Slovenia,

South Africa, Spain, Suriname, Swaziland, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Albania, Algeria, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Bosnia and Herzegovina, Cambodia, Cameroon, Cape Verde, Cuba, Egypt, Grenada, Malawi, Marshall Islands, Mauritania, Mauritius, Myanmar, Nepal, Nigeria, Pakistan, Papua New Guinea, Philippines, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Togo, Tunisia, Uganda, Ukraine, United Republic of Tanzania, Vanuatu, Viet Nam.

72. *The motion was rejected by 85 votes to 12, with 43 abstentions.*

73. **Mr. Stagno** (Costa Rica), speaking on behalf of the sponsors, announced that Angola, Antigua and Barbuda, Dominica, Estonia, Liberia, Mali, Mozambique, Samoa and Zambia had joined the list of sponsors of the draft resolution and that Comoros had withdrawn. He urged countries attached to human rights to vote in favour of the draft resolution.

74. **Ms. Astanah** (Malaysia) asked whether the programme-budget implications of the draft resolution would also be discussed in the Fifth Committee, since she was not in a position to express herself on the matter.

75. **The Chairman** assured her that it would. He announced that, under rule 130 of the rules of procedure, the Committee would first take action on the proposed amendment to the draft resolution (A/C.3/57/L.39), after which it would take action on draft resolution A/C.3/57/L.30 itself.

76. **Mr. Hahn** (Denmark), speaking on behalf of the European Union, said the proposed amendment was unacceptable. All other United Nations human rights instruments were funded from the regular budget and the draft Optional Protocol, an important step in international efforts to eliminate torture, must also be funded from the regular budget. All countries should support the Optional Protocol and no country should be prevented from becoming a party to it because of financial concerns.

77. **Mr. Gaffney** (United States of America) said his delegation abhorred torture and fully supported measures to combat that despicable practice. However, the text of the draft Optional Protocol was seriously flawed. It did not enjoy broad international support as recommended in General Assembly resolution 41/120 on setting international standards in the field of human rights and it was wrong and unfair to force all Member States to bear the costs of its implementation through the regular budget of the Organization; only the States Parties should be required to pay implementation costs. The programme budget implications of the Optional Protocol, even at the earliest stages, would have a significant impact on the regular budget of the Organization at a time when many Member States already had difficulty paying their assessments. Furthermore, the mechanism to be created by the Optional Protocol would be able to carry out only minimal follow-up visits to State Party reports and would therefore be of very limited effectiveness.

78. **Mr. von Kaufmann** (Canada), speaking in explanation of vote before the vote, opposed the United States amendment. His delegation supported effective action by the Organization to prevent torture and welcomed the creation of the inspection mechanism proposed in the draft Optional Protocol. Like all other human rights instruments, it should be funded from the regular budget of the Organization in order to ensure adequate funding and allow all Member States to become parties without fear of additional financial burdens, thus contributing to full implementation.

79. Although some delegations had voiced concerns, all Member States would have a further opportunity to make their views known during consideration of the draft resolution in the Fifth Committee and in any case the contribution required of non-States Parties to the Optional Protocol would not be excessive. In accordance with the basic principle of the need for the Organization to promote all human rights and freedoms, his delegation would vote against the proposed amendment.

80. **Mr. Stagno** (Costa Rica) said the United States seemed to have only economic reasons for its amendment rather than any solid arguments. Failure to fund the Optional Protocol through the regular budget would set a negative precedent for other human rights

instruments, especially given growing international support for it as evidenced by the fact that there were 86 sponsors of the draft resolution, and would imply that only human rights instruments which had the approval of major contributors to the Organization could be implemented. No State which truly abhorred torture could suggest an amendment such as the one contained in document A/C.3/57/L.39. He urged delegations to reject the amendment.

81. **Ms. Ndhlovu** (South Africa) opposed the amendment and recalled that similar attempts to modify the draft Optional Protocol had been rejected at the Commission on Human Rights and at the Economic and Social Council. Her delegation considered the fight against torture to be a priority and believed financial considerations should not be a factor when setting international human rights standards. That would set a negative precedent for the international human rights agenda and she called on all delegations to reject the amendment, which was an ill-conceived initiative.

82. **Mr. Tomoshige** (Japan) stressed his delegation's opposition to torture but said it had serious concerns about the inspection mechanism proposed in the draft Optional Protocol. Despite repeated requests, that mechanism had not been discussed in full and although the Optional Protocol had been under discussion for ten years, he regretted that the present text had been introduced at the last minute in the working group and that there had been no paragraph-by-paragraph consideration of it, neither had there been adequate opportunities to discuss it within the Third Committee. Given the serious procedural and substantive flaws associated with the draft Optional Protocol, his delegation could not agree to funding of the inspection mechanism through the regular budget of the Organization and would therefore vote in support of the United States amendment. Furthermore, if the present text of the draft Optional Protocol was put to a vote, his delegation would be forced to vote against it.

83. *A recorded vote was taken on the amendment proposed by the United States of America in document A/C.3/57/L.39.*

In favour:

Australia, India, Israel, Jamaica, Japan, Kazakhstan, Marshall Islands, Pakistan, Russian Federation, United States of America, Uzbekistan.

Against:

Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Bahamas, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Kenya, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Malawi, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Romania, Saint Kitts and Nevis, Samoa, San Marino, Senegal, Slovakia, Slovenia, South Africa, Spain, Suriname, Swaziland, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Abstaining:

Albania, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Brunei Darussalam, Cambodia, Cameroon, China, Cuba, Egypt, Guyana, Haiti, Indonesia, Kuwait, Malaysia, Mauritania, Myanmar, Oman, Philippines, Qatar, Republic of Korea, Saudi Arabia, Singapore, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, Ukraine, United Republic of Tanzania, Viet Nam.

84. *The amendment proposed by the United States of America in document A/C.3/57/L.39 was rejected by 98 votes to 11, with 37 abstentions.*

85. **Mr. Choi** (Australia) stressed his delegation's commitment to adequate funding of the six core treaty bodies through the regular budget but was concerned at the way in which the draft Optional Protocol had been hastily adopted in the Commission on Human Rights and the Economic and Social Council, by vote rather than by consensus, and at the financial implications of the draft Optional Protocol at a time when the Organization's resources were already strained to the limit. No new funding obligations from the regular budget should be accepted without wide international

support in order to avoid diverting resources from existing mechanisms. He supported State party funding of the Optional Protocol and had voted in favour of the amendment.

86. **The Chairman** said the Committee would proceed to take action on draft resolution A/C.3/57/L.30.

87. **Mr. Gaffney** (United States of America) requested a recorded vote. Although his delegation abhorred the despicable practice of torture and his Government was the single largest donor to the United Nations Voluntary Fund for Victims of Torture and supported measures to combat torture, it had serious concerns with the divisive and flawed process by which the draft resolution had been brought before the Commission on Human Rights, the Economic and Social Council and the Third Committee.

88. During consultations on the draft Optional Protocol, his delegation had suggested an alternative text which would allow the current Committee against Torture to undertake voluntary visits as follow-up to State party reports. It had also informally suggested the possibility of an "opt in" clause permitting ad hoc visits and had asked for further consultations within the context of a working group of the Third Committee. It had also made an informal request to amend paragraph 2 of the draft resolution to call upon all States parties to the Convention against Torture to simply "consider signing and ratifying or acceding to the Optional Protocol" in the belief that such a decision was the sovereign right of each nation. His delegation therefore objected to the current language of paragraph 2.

89. The draft Optional Protocol had both procedural and substantive flaws. The proposed visiting mechanism would permit only minimal visits as follow-up to State party reports and would therefore be of limited effectiveness, and there was no provision for reservations to the Optional Protocol. It did not enjoy broad international support and therefore should be funded only by States parties and not from the regular budget, which would impose a significant additional financial burden on the Organization. In that context, he regretted that an estimate of programme budget implications had been available only at the last minute, but noted that even the initial costs would be significant and said it would be unfair to force all Member States to share that burden. Implementation of the draft Optional Protocol would compete with results-oriented mechanisms such as the Committee against Torture itself for limited resources. Adoption of draft resolution A/C.3/57/L.30 would set a dangerous precedent, given the lack of consensus, and his delegation would therefore vote to reject it.

90. *A recorded vote was taken.*

In favour:

Afghanistan, Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Indonesia, Ireland, Italy, Jordan, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Kitts and Nevis, Samoa, San Marino, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Against:

China, Cuba, Israel, Japan, Nigeria, Syrian Arab Republic, United States of America, Viet Nam.

Abstaining:

Algeria, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bhutan, Brunei Darussalam, Cameroon, Egypt, Ethiopia, Georgia, Guyana, India, Jamaica, Kazakhstan, Kenya, Kuwait, Libyan Arab Jamahiriya, Malaysia, Mauritania, Myanmar, Nepal, Oman, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Singapore, Sudan, Thailand, Togo,

Tunisia, United Republic of Tanzania, Uzbekistan.

91. *Draft resolution A/C.3/57/L.30 was adopted by 104 votes to 8, with 37 abstentions.*

92. **Ms. Kislinger** (Venezuela) said that implementation of the provisions relating to visits by the Subcommittee on Prevention would require practical rules for that purpose to be established in consultation with the national mechanisms for the prevention of torture in order to facilitate those visits.

93. **Mr. Amorós Núñez** (Cuba) stressed his Government's opposition to all forms of torture and support for a draft Optional Protocol. Regrettably, the sponsors had chosen to proceed with a flawed instrument which did not enjoy broad support and could hinder efforts to eliminate torture. Elements of the text for example conflicted with the principle of State sovereignty, and he hoped that concerns could be overcome in order to achieve a consensus and universality with regard to such an important instrument.

94. **Ms. Sriratanaban** (Thailand) stressed her Government's commitment to the Universal Declaration of Human Rights and said that, although her Government opposed torture and was considering becoming a party to the Convention against Torture in due course, her delegation had abstained during the vote. The draft Optional Protocol contained elements which did not enjoy consensus, and she hoped that there would be further constructive dialogue in order to ensure a total commitment on the part of the international community.

95. **Mr. Choi** (Australia) said his delegation abhorred torture but had abstained during the vote and recalled it had voted against the draft Optional Protocol in the Economic and Social Council. He reiterated his delegation's procedural and substantive concerns with regard to the draft Optional Protocol, which had been submitted at the last minute and did not enjoy the broad consensus usual for human rights instruments. His delegation did not accept that accession to the draft Optional Protocol should imply a standing invitation to the Subcommittee on Prevention; his Government would allow such visits only if it deemed there were compelling reasons to do so. His Government was in the process of reviewing its relationship with and the effectiveness of United Nations human rights treaty procedures and had made and would continue to make proposals in that regard, including in relation to a more appropriate international mechanism for the prevention of torture.

96. **Ms. Khalil** (Egypt) noted her delegation's active participation in the working group on the draft Optional Protocol and her Government's opposition to torture but regretted the lack of consensus surrounding the draft Optional Protocol. Certain paragraphs required further consideration, for example with regard to the Subcommittee on Prevention, in order to ensure a balance between both national and international mechanisms to prevent torture. Efforts to prevent torture should take place within a framework of cooperation and constructive consultation which did not threaten national sovereignty.

97. **Mr. Yagob** (Libyan Arab Jamahiriya) said that the Committee should have continued the negotiations on the draft Optional Protocol, as his delegation attached great importance to the principle of consensus, especially for human rights instruments. It would be difficult to achieve universality without observing that principle.

98. **Mr. Loh** Tuck Keat (Singapore) said that the draft resolution was a sensitive one for many delegations, and therefore the principles of transparency and consensus were all the more important. However, not a single open informal consultation had been held on the draft resolution. His delegation wondered whether there would be any practical benefit from an optional protocol adopted by vote under the current circumstances. It had not opposed the draft resolution, since it also opposed torture and inhuman punishment. However, in view of the manner in which the draft resolution had been imposed on the international community, he had abstained.

99. **Mr. Dhakal** (Nepal) said that his delegation reiterated its commitment to human rights and to combating torture. It had contributed experts to the Committee against Torture and had made contributions to the Voluntary Fund. The draft Optional Protocol was currently under consideration by his Government; hence his delegation had abstained.

100. **Ms. Tomar** (India) said that her delegation had followed closely the protracted and difficult negotiations on the draft Optional Protocol. An optional protocol which did not command consensus would not be universal, and therefore, in the view of

her delegation, the sponsors should not have forced its adoption by a vote.

101. **Mr. Tomoshige** (Japan) said it was regrettable that action on the draft Optional Protocol had been forced. Additional expenditures for its implementation were clearly anticipated, and therefore the draft resolution should be reviewed by the Fifth Committee before submission to the plenary Assembly.

Draft resolution A/C.3/57/L.36: Torture and other cruel, inhuman or degrading treatment or punishment

102. **Mr. de Barros** (Acting Secretary of the Committee) said that, in paragraph 27 of the draft resolution, the General Assembly would further request the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in combating torture and assisting victims of torture, commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture. It should be noted that adequate staff and facilities were currently provided for the bodies and mechanisms involved, and hence, adoption of the paragraph would not involve any change in the level of resources required to meet those needs. The Secretariat wished to draw attention to the provision of part B, section VI, of General Assembly resolution 45/248, in which the General Assembly reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and ACABQ.

103. **Ms. Gunnarsdóttir** (Iceland), speaking on behalf of the sponsors, announced that Cape Verde, Ecuador, Georgia, Malawi, Mauritius and Uruguay had joined the sponsors. She also made editorial corrections to paragraphs 16, 19, 20 and 21.

104. *Draft resolution A/C.3/57/L.36, as orally corrected, was adopted.*

Draft resolution A/C.3/57/L.38: Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

105. **Mr. de Barros** (Acting Secretary of the Committee) said that, in paragraph 5 (a) of the draft resolution, the General Assembly would reiterate its request that the Secretary-General should provide adequate resources in respect of each treaty body, while making the most efficient use of existing resources, in order to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information. In paragraph 5 (b) the Assembly would call upon the Secretary-General to seek, in the next biennium, the resources within the United Nations regular budget necessary to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information. The Secretariat wished to draw attention to the provision of part B, section VI, of General Assembly resolution 45/248, in which the General Assembly reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and ACABQ.

106. **Ms. Kent** (Canada), speaking on behalf of the sponsors, said that, in paragraph 9, the words "Calls upon" should be replaced by "Requests". She added that Albania, Andorra, Bolivia, Ecuador, Guatemala, Japan, Jordan, Malta, Moldova, Nigeria, Suriname and the United Republic of Tanzania had joined the sponsors.

107. *Draft resolution A/C.3/57/L.38, as orally revised, was adopted.*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/134, 138, 140, 182, 205 and Add.1, 274, 275, 277, 283, 311 and Add.1, 323, 356, 357, 369, 371, 384, 385, 394, 446, A/57/458-S/2002/1125 and A/57/484; A/C.3/57/7

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/57/230, 284, 290 and Corr.1, 292, 309, 325, 326, 345, 349, 366 and Add.1, 433 and 437; A/C.3/57/5

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/57/36 and 446)

108. **The Chairman** invited the Committee to resume its general discussion of the agenda item.

109. **Mr. Xie** Bohua (China) said that the tenth anniversary of the Vienna World Conference on Human Rights would be observed in 2003, and although much had been accomplished during the past 10 years, much

remained to be done to meet the goals of the Vienna Declaration and Programme of Action.

110. There had been a great deal of reflection on how to strengthen the work of the Commission on Human Rights, and his delegation would like to offer some observations. First, practical measures must be taken to reduce confrontation. The problem of political confrontation within the Commission was a longstanding one, resulting from the insistence of a few countries and groups on clinging to a cold-war mentality by politicizing human rights and using country resolutions to exert pressure on developing countries. His delegation hoped that those countries and groups would engage in some soul-searching and take practical steps to reduce such confrontation.

111. Second, a balanced approach was needed to deal with economic, social and cultural rights as well as civil and political rights. Although 1.3 billion people still subsisted on less than a dollar a day, the Commission still downplayed economic, social and cultural rights and the right to development, as witnessed by the difficulties still being encountered by the Open-Ended Working Group on the Right to Development. His delegation hoped that the international community would accord the same importance to the right to development as to other human rights, thereby realizing their true universality and indivisibility.

112. Third, international cooperation and shared responsibility for the promotion and protection of human rights must be strengthened. His Government was actively engaged in international exchanges through bilateral dialogue with a number of countries, and had taken steps to enhance its cooperation with the Office of the High Commissioner for Human Rights.

113. The promotion of human rights was a responsibility of Governments, and the efforts of the Chinese Government had achieved significant results. However, no country could claim a perfect human rights record, and his Government stood ready to continue learning from and cooperating with other countries in order to improve the enjoyment of human rights by all people.

114. **Ms. Groux** (Switzerland), speaking on item 109 (b) and referring to the Secretary-General's report entitled "Strengthening of the United Nations: an agenda for further change" (A/57/387), particularly his proposals for strengthening human rights, said that her delegation shared the Secretary-General's concern at the increasing polarization of the Commission on Human Rights, and during its time as an observer in that body, Switzerland had always encouraged dialogue rather than confrontation. With regard to the special procedures of the Commission, there was a need to strengthen the dialogue with the special rapporteurs and working groups while providing them with sufficient resources, both human and financial, to carry out their mandates. Her delegation supported the proposals for improving the system of reporting to human rights treaty bodies, and found the idea of each State producing a single report summarizing its adherence to all the international human rights treaties to which it was a party very interesting. Sufficient resources should be allocated from the regular budget to cover the costs of the human rights treaty bodies and the special procedures of the Commission. A realistic and predictable budget would allow the Office of the High Commissioner better to coordinate its activities and would encourage voluntary contributions.

115. Globalization had created a perception that States were giving way to large corporations, and that responsibilities once reserved for States, including the protection of human rights, should be taken on by those new global actors. Her delegation believed that multinational corporations had a role to play in human rights, but stressed that the activities of the private sector and civil society could only be complementary: Governments must retain primary responsibility for human rights, but a constructive partnership could be developed that would respect the abilities and roles of each. Switzerland accordingly supported the Secretary-General's initiative to promote the Global Compact (A/55/1, para. 23).

116. The effect of terrorism on human rights was a complex question. It was a matter of urgency to prevent terrorist attacks on innocent people, but such actions must take place within the framework of the universal principles of human rights. Those principles must not become another casualty of terrorism. On the contrary, the best response to those who scorned universal values and principles was to reaffirm them through dialogue among civilizations. Adoption by consensus of a resolution affirming respect for international law and human rights in the fight against terrorism would be a tangible sign of the intentions of the international community.

The meeting rose at 6 p.m.